

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE
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**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
Abbas Abutaa
FOR
Haymarket Evergreen Center
VPDES Permit Registration No. VAG406209**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Abbas Abutaa, regarding the Haymarket Evergreen Center sewage treatment plant, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Abbas Abutaa" means Mr. Abbas Yousef Abutaa, currently a resident of Fairfax County, Virginia. Abbas Abutaa is a "person" within the meaning of Va. Code § 62.1-44.3.

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3. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
4. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. “Director” means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. “Discharge” means discharge of a pollutant. 9 VAC 25-31-10
7. “Discharge of a pollutant” when used with reference to the requirements of the VPDES permit program means:
 - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
8. “DMR” means Discharge Monitoring Report.
9. “Effluent” means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
10. “Facility” or “Plant” means the Haymarket Evergreen Center sewage treatment plant, located at 3511 James Madison Highway, Haymarket, Virginia 20169, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses served by Abbas Abutaa.
11. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
12. “NRO” means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
13. “O&M” means operations and maintenance.
14. “Order” means this document, also known as a “Consent Order” or “Order by Consent,” a type of Special Order under the State Water Control Law.
15. “2016 Permit” means VPDES General Permit No. VAG40, which was issued under the State Water Control Law and the Regulation to Abbas Abutaa on August 2, 2016, and expired on August 1, 2021.

16. "2021 Permit" means VPDES General Permit No. VAG40, which was issued under the State Water Control Law and the Regulation to Abbas Abutaa on August 2, 2021, and which expires on July 31, 2026.
17. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.
18. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
19. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
20. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
21. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
22. "Va. Code" means the Code of Virginia (1950), as amended.
23. "VAC" means the Virginia Administrative Code.
24. "VPDES" means Virginia Pollutant Discharge Elimination System.
25. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. Abbas Abutaa owns and operates the Plant. The Permit allows Abbas Abutaa to discharge treated sewage and other municipal wastes from the Plant, to an unnamed tributary of Chestnut Lick stream, in strict compliance with the terms and conditions of the Permit.
2. Chestnut Lick is located in the Potomac River Basin. Chestnut Lick is listed in DEQ's 2020 305(b) report as supporting aquatic life, though other parameters were not assessed or lacked sufficient data. Bull Run, located approximately 4.4 miles downstream from the Plant was assessed as impaired for aquatic life use and recreational use.
3. In the course of normal operation of the plant, Abbas Abutaa is required by the 2016 and the 2021 Permit to submit an annual discharge monitoring report ("DMR") for the September 1 through August 30 period of each year by September 10, which includes a maintenance log of the plant. For the five consecutive periods between September 1, 2016, and August 30, 2021, no such DMRs or maintenance logs were submitted to DEQ by the due dates of September 10, 2017, September 10, 2018, September 10, 2019, September 10, 2020, or September 10, 2021.
4. 2016 and 2021 Permit Part I.A.1 states in part, "During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall 001 to receiving waters where the 7Q10 flows are less than 0.2 MGD. The discharge shall be limited and monitored by the permittee as specified in the following table [table describing effluent characteristics, limitations, and monitoring requirements]."
5. 2021 Permit Part I.D.2.b.(3)(d) states in part, "Report monitoring results to DEQ as required in Part I A 2, Part I B 2, and Part I C 2, as applicable, as well as Part II C, and maintain at the treatment works and provide to the permittee a log of the following items..."
6. 2021 Permit Part I.A.2 states, "All monitoring data required by Part I A 1 shall be maintained on site in accordance with Part II B. Monitoring results for treatment works serving buildings or dwellings other than individual single family dwellings shall be submitted to the department on a Discharge Monitoring Report (DMR) no later than the 10th of September following the monitoring period. The monitoring period is September 1 through August 31. A copy of the maintenance log required by Part I D 2 b (2) (e) shall also be submitted with the DMR. Monitoring results for treatment works serving individual single family dwellings are submitted to the Virginia Department of Health in accordance with 12VAC5- 640."
7. 2016 Permit Part I.D.2.b.(4) states in part, "The permittee shall keep a log of all maintenance performed on the treatment works including, but not limited to, the following..."

8. 2016 Permit Part I.A.2 states, “All monitoring data required by Part I A 1 shall be maintained on site in accordance with Part II B. Monitoring results for treatment works serving buildings or dwellings other than individual single family dwellings shall be submitted to the department on a Discharge Monitoring Report (DMR) no later than the 10th of September following the monitoring period. The monitoring period is September 1 through August 31. A copy of the maintenance log required by Part I D 2 b (4) shall also be submitted with the DMR. Monitoring results for treatment works serving individual single family dwellings are submitted to the Virginia Department of Health in accordance with 12VAC5-640.”
9. DEQ issued three Warning Letters (“WL”) and a Notice of Violation (“NOV”) to Abbas Abutaa as follows: WL # W2017-10-N-1019, sent on October 30, 2017; WL # W2018-10-N-1004, sent on October 16, 2018; WL # W2019-10-N-1012, sent on October 25, 2019; and NOV # W2020-10-N-0002, sent on November 2, 2020.
10. DEQ staff conducted a recon inspection of the plant on April 16, 2021, and identified the following deficiencies: there was no maintenance contract in place; and the facility was not properly operated and maintained at the time of the inspection, and requested information to ascertain plant components was not submitted. Facility staff were unable to access and identify the septic tank or other components of the system, and did not provide an as-built drawing or schematic of the plant as requested in the inspection report, and the Outfall 001 discharge pipe was difficult to locate and covered by grass.
11. 2021 Permit Part I.D.2.b.(1) states, “To ensure the treatment works is operated, maintained, monitored, and reported properly, the permittee shall engage a licensed operator as defined in subdivision D 3 of this section.”
12. 2021 Permit Part II.D states in part, “The permittee shall furnish to the department, within a reasonable time, any information that the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating coverage under this permit or to determine compliance with this permit.”
13. 2021 Permit Part II.Q states in part, “Proper operation and maintenance. The permittee shall at all times properly operate and maintain the facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of the permit.”
14. Abbas Abutaa did not respond in writing to the Warning Letters and Notices of Violation.
15. DEQ issued a second Notice of Violation in response to the inspection report: NOV # W2021-09-N-005, on September 27, 2021.
16. Va. Code § 62.1-44.5 states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”

17. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
18. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
19. The Department has issued no permits or certificates to Abbas Abutaa other than VPDES Permit No. VAG40.
20. The unnamed tributary of Chestnut Lick is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
21. Based on the results of the April 16, 2021, inspection, and DEQ’s review of the Plant’s compliance-reporting submissions, the Board concludes that Abbas Abutaa has violated the 2016 and 2021 Permits and 9 VAC 25-31-10, by discharging treated sewage and municipal wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraph C(1) – C(20), above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Abbas Abutaa, and Abbas Abutaa agrees to: pay a civil charge of \$5,374.95 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

1. Pay a civil charge of \$5,374.95 in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
February 1, 2022	\$1,791.65 or balance
May 1, 2022	\$1,791.65 or balance
August 1, 2022	\$1,791.65 or balance

2. If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by Abbas Abutaa. Within 15 days of receipt of such letter, Abbas Abutaa shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.
3. All payments shall be made by check, certified check, money order or cashier’s check payable to the “Treasurer of Virginia,” and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Abbas Abutaa shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Abbas Abutaa shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Abbas Abutaa for good cause shown by Abbas Abutaa, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Abbas Abutaa admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Abbas Abutaa consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Abbas Abutaa declares he has received fair and due process under the Administrative Process Act and the State Water Control Law and he waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Abbas Abutaa to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Abbas Abutaa shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond his control and not due to a lack of good faith or diligence on its part. Abbas Abutaa shall demonstrate that such circumstances were beyond his control and not due to a lack of good faith or diligence on his part. Abbas Abutaa shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

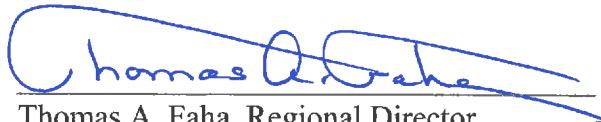
Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Abbas Abutaa. Nevertheless, Abbas Abutaa agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Abbas Abutaa has completed all of the requirements of the Order;
 - b. Abbas Abutaa petitions the Director or his designee to terminate the Order after he has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Abbas Abutaa voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 21
18 day of March
17, 2022.



Thomas A. Faha, Regional Director
Department of Environmental Quality

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Mr. Abbas Yousef Abutaa voluntarily agrees to the issuance of this Order.

Date: 12-17-21 By: [Signature]
Abbas Abutaa

Commonwealth of Virginia
City/County of Fairfax / Virginia

The foregoing document was signed and acknowledged before me this 17th day of
Dec, 20 21, by _____.

Farzaneh Assadi
Notary Public

298530
Registration No.

My commission expires: 1/31/24

Notary seal:

